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September 29, 2010

Mr. Phil Isenberg, Chairman
Delta Stewardship Council
980 9th Street Suite 1500
Sacramento, CA 95814

RE: The 5th Draft of the Delta Plan

Dear Chairman Isenberg and Council Members:

As the Senate representative of four of the five counties encompassing the Delta, the Delta Plan will have a direct and lasting impact on my constituents and the resources within my District. For that reason, I am closely following the development of the Delta Plan.

The Delta Stewardship Council has been charged to develop a plan that will meet the co-equal goals, defined as: "Co-equal goals" means the two goals of providing a more reliable water supply for California and protecting, restoring, and enhancing the Delta ecosystem. The co-equal goals shall be achieved in a manner that protects and enhances the unique cultural, recreational, natural resource, and agricultural values of the Delta as an evolving place." (CA Water Code §85054)

It is clear that the Delta Stewardship Council (Council) has put a significant amount of work into the 5th draft Delta Plan (Plan). There is much in the Plan that should be applauded, especially given the short timeframe that the Council has had to work under. It is also clear that there is much more work to be done in order to meet the statutorily defined co-equal goals.

A significant shortfall of the current plan is the lack of integration and cohesion between chapters and issues. In particular, the values of the Delta are hardly mentioned in the Plan other than in an isolated chapter (chapter 8). Even where the values of the Delta are addressed, the Plan fails to reconcile or discuss how policies and recommendations listed in chapter 8 can be achieved while also achieving policies and recommendations outlined in water supply reliability and ecosystem restoration chapters of the Plan. As cautioned by the Independent Science Board in the Draft Synthesis to the Council dated September 16, isolating the issues in this way results in chapters that seem to work at cross-purposes. The separation of issues also ignores the central role that the Delta community must play in achieving the co-equal goals.

Note that the definition of co-equal goals dictates that water supply reliability and ecosystem restoration shall be *achieved in a manner* that protects and enhances the values Delta. This definition of co-equal goals intended to ensure that the Council would not look at the issues of water reliability, ecosystem restoration and enhancement of the Delta values in silos- rather that policies to address the co-equal goals should be designed to recognize and enhance the Delta values to the extent feasible.

I urge the Council to evaluate the Draft Plan and identify policies and recommendations that will meet the full definition of the co-equal goals. I encourage the Council to work closely with the Delta community, the Delta Conservancy and the Delta Protection Commission to identify policies that can be included or enhanced to address the protection and enhancement of Delta values throughout the Delta Plan. The Delta community can and should be a partner in implementing the Delta Plan. While some disagreement between State and local interests may always exist, the Council has an opportunity and responsibility to develop policies that will enable and encourage such partnerships.

Another area of concern in the current Draft Delta Plan is the lack of clarity of the covered actions process. Many of the local governments within the Delta have expressed deep concern with uncertainty that would result from the lack of clarity in the covered actions process described in the Plan. Local agencies in the Delta will be the most affected by the covered actions process, since many of their day-to-day decisions may be interpreted as covered actions. In particular, the Plan should be clearer about what will and will not be considered a covered action and who will be in charge of determining which actions require a consistency determination and which will not. I urge the Council to continue to work with the Delta community to clarify and where feasible simplify the covered actions process.

The lack of clarity in the adaptive management discussion also creates a great deal of uncertainty. The Delta Plan describes the concept of adaptive management, but is not clear about how the concept will be applied to implement the Delta Plan. This is particularly problematic when considering covered actions and the Bay Delta Conservation Plan (BDCP). As it stands, covered actions and the BDCP will be addressed and considered by the Council at the point of project approval. However, the lack of a clear adaptive management process leaves significant doubt about the Council's ability to monitor or adapt the BDCP and covered actions on an on-going basis.

Finally, the timeline outlined by the Plan remains a concern. I applaud the Council for boldly calling for the development and enforcement of new flow requirements for the Delta and high priority tributaries. Understanding how much water the Delta needs to be healthy should be the foundation of determining where and how to restore habitat in the Delta, and for assessing new infrastructure- both of which are currently being discussed in the BDCP process. However, the Delta Plan calls for new Delta flows to be in place by June 2, 2014- only six months after the Delta Plan calls for the finalization of the Bay Delta Conservation Plan. This timeline suggests that most of the decision-making in BDCP about conveyance and habitat will occur without the benefit of knowing how much water will be available. The timeline should be adjusted to allow and encourage the BDCP process to take into account new flow standards prior to making commitments to large-scale and expensive new projects.

Developing the Delta Plan is a daunting, but critically important charge. I applaud the Council for your efforts thus far, but urge you to ensure that the Plan is robust, cohesive, and realistic prior to finalizing the plan.

Sincerely,



LOIS WOLK
California Senate, 5th District